IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA, Appellee, v. JOHN ADRIAN JOHNSON, Appellant.	)	2 CA-CR 2006-0381 DEPARTMENT B MEMORANDUM DECISION Not for Publication Rule 111, Rules of the Supreme Court

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-20061074

Honorable Gus Aragon, Judge

AFFIRMED

Emily Danies
Tucson
Attorney for Appellant

E S P I N O S A, Judge.

¶1 After a jury trial, appellant John Johnson was convicted of burglary and theft by control. The trial court imposed concurrent, presumptive, enhanced prison terms, the longer of which was 4.5 years. Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396 (1967), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999), stating that she has thoroughly reviewed the record on appeal and has found no meritorious issues to raise. She suggests, however, that the trial court's denial of Johnson's motion for a judgment of acquittal, made pursuant to Rule 20, Ariz. R. Crim. P.,

17 A.R.S., may provide the appearance of an arguable issue. Counsel has complied with the requirements of *Clark*, 196 Ariz. 530, ¶ 32, 2 P.3d at 97, that she set forth a "detailed factual and procedural history of the case with citations to the record, [so] this court can satisfy itself that counsel has in fact thoroughly reviewed the record." Counsel has also asked us to search the record for fundamental error. Johnson has filed a supplemental brief. Finding no error, we affirm.

¶2 The evidence at trial showed that the glass on the front door of the store where the burglary occurred had been broken; there was blood on the floor of the store, near the cash register; the owner of the store had mopped the floor just before she left the store the night before the burglary; the deoxyribonucleic acid (DNA) profile of the blood found on the floor, which was only one individual, was "identical" to Johnson's DNA profile; and "barring an identical twin, [the criminalist] wouldn't expect to see the profile more than once." The trial court denied Johnson's Rule 20 motion for the following reasons.

> [T]he jury could infer that there was a break-in, there was an entry, there was a loss of blood by someone at sometime between the time that the proprietor closed the store and then came back and discovered the damage. She testified that the store was clean and mopped and she saw no blood when she closed up. And then the blood was there when the police entered after the damage to the store. So I think the jury could reasonably conclude that there was a break-in and a theft. And the question remains as to whether your client was tied to it. And I think the jury can reasonably infer that the DNA evidence from the blood that was inferrably [sic] deposited sometime after the closure and before the damage—or after the damage but before the owner reentered the next day, that the blood was deposited by Mr. Johnson.

¶3 In his one-page, supplemental brief, Johnson argues in general terms that his attorney "did not help [him] in [his] case," the trial court had said the fingerprint card the

court relied on was an "illegal" document, and the owner of the store had lied about money missing from the cash register. Assuming Johnson is suggesting his attorney was in some way ineffective, we do not address the argument. *See State v. Spreitz*, 202 Ariz. 1, ¶ 9, 39 P.3d 525, 527 (2002) (ineffective assistance of counsel claims are not addressed on appeal). To the extent we understand Johnson's argument about the fingerprint card, we clarify that, at the prior convictions trial held on October 16, 2006, the trial court found the fingerprint card "is that of the Defendant[']s prints] and that adequate evidence has been presented to allow its admission." And it was up to the finder of fact, not this court, to determine whether the victim was telling the truth about the money missing from the register. *See State v. Cid*, 181 Ariz. 496, 500, 892 P.2d 216, 220 (App. 1995) (fact finder, rather than appellate court, determines witness's credibility).

¶4 We are satisfied that substantial evidence supports Johnson's convictions. Accordingly, the trial court did not abuse its discretion in denying Johnson's Rule 20 motion. Pursuant to our obligation under *Anders*, we have reviewed the entire record and have found no fundamental error. Therefore, we affirm the judgment of convictions and the sentences imposed.

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PHILIP G. ESPINOSA, Judge

CONCURRING:

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PETER J. ECKERSTROM, Presiding Judge

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J. WILLIAM BRAMMER, JR., Judge